this doctrine applied that it has been held that the ratification of an act, involves the ratification of torts committed by the agent in its performance. *Dempsey* v. *Chambers*, 154 Mass. 330 (1891). In the case under discussion, therefore, the defendant should have been treated as an undisclosed principal. If it be argued that the third party did not know that he was contracting with any other than the agent, it should be remembered that he would not have known this fact, had there been a prior authority. In both cases the agent secretly intends to benefit another. If in the one case the third party suffers no harm, and equity requires that the undisclosed principal be liable, so does it equally in the other, for, as regards the third party, the cases are identical. Likewise, as between the principal and agent the case is unchanged, whether the agent *profess* to act for the principal or no. In both cases he does act for the principal, and in both cases the principal assents to the act.

If the court decides the case on the difficulty of proving what was the intention of the agent, it grounds its decision arbitrarily on its conception of convenience, and not on the principles of law involved in the case. It is to be noted, moreover, in this connection, that the state of a man's mind in cases of conditional contracts where performance is to be to the defendant's satisfaction, is examined and determined. *Brown* v. *Foster*. 113 Mass. 136 (1873); *Exhaust Ventilator Co.* v. *C. M. & St. P. R. Co.*, 66 Wis. 218 (1886).

Finally, though it be true that the doctrine of the undisclosed principal is anomalous from the point of view of contract law, yet it is as firmly settled in the law of agency as that of either the named or unnamed principal; that is to say, principals may be named, unnamed or undisclosed. Each is capable of acting through an agent having a prior authority. A ratification is the equivalent of a prior authority. Each should, therefor, have the right to ratify. And yet the decision in this case denies the right to an undisclosed principal. Surely the result of the decision is an anomaly in the law of agency.

THE TAFF VALE RAILWAY CASE.—A decision of importance in its effect upon the English law relating to labor organizations, was handed down in July by the House of Lords. *Taff Vale Ry.* v. *Amalgamated Society of R'y Servants* (1901) A. C. 426. The case turned on the construction of the Trade Union Acts, 1871 and 1876; the question being whether a union registered under the Acts could be sued in its registered name. These statutes do not provide for incorporation, nor do they, in terms, allow suits to be brought in this manner; but they recognize the legal validity of the unions, make provision for their registration, for the vesting of property in trustees, and for the bringing of actions in respect of such property in the name of the trustees.

In the principal case, suit was brought for an injunction and damages for unlawful picketing; picketing, except when the acts are committed for the sole purpose of obtaining or communicating information, being made illegal by English statutes, and all picketing

being said to be a nuisance at common law. *Lyons* v. *Wilkins* [1899] 1 Ch. 255. At chambers, FARWELL, J., held that the suit against the defendant union was properly brought in its registered name, although the society was neither a corporation, a partnership nor an individual; declaring that inasmuch as the Legislature had given these bodies the capacity to hold property and to act through agents, in the absence of express enactment, it must have intended that they should be liable at law for the acts of such agents. Reversed by the Court of Appeal, (1901) 1 K. B. 170, the judgment of FARWELL, J., was adopted and restored by the House of Lords without dissent.

The case was one of first impression. That the point raised by the plaintiff has not been argued before during the thirty years which have elapsed since the enactment of these statutes, in spite of the great mass of litigation relating to trade unions, is not without significance as showing a construction put upon the Acts by the profession directly opposed to that now adopted by the court of last resort. The nearest analogies are decisions holding that certain unincorporated associations, sued in the name of their respective clerks, under authority given by statute, were liable for torts committed by their agents. *Ruck* v. *Williams*, 3 H. & N. 308 (1858); *Whitehouse* v. *Fellowes* 10 C. B. (N. S.) 765 (1861). So, in the principal case, if the right to sue the trustees of a union were not restricted to actions relating to the society's property, there would have been no doubt as to the plaintiff's power to reach the funds of the union. But this provision of the statute authorizing the trustees to bring and defend suits in their names, seems, as is pointed out by A. L. SMITH, M. R., in delivering the unanimous opinion of the Court of Appeal, quite inconsistent with the theory that Parliament intended that unions might sue, or be subject to suit, in their registered names. "If this were so, what is the good of this section expressly enabling the trustees or other officers of the union to sue or be sued in respect of property?"

The Law Lords seem to have gone a great way to bring about a desired result, influenced, perhaps, by a sense of the intolerable difficulties ordinarily involved in bringing suit against such large bodies of individuals. Indeed, it is contended by an English writer that the language of the judges is so broad as to be applicable to the ordinary non-statutory, voluntary associations; *e. g.*, clubs. *Econ. Journal*, XI, 130, 447.

Lords Macnaghten and Lindley were of the opinion that the same result might have been reached without use of the registered name, and without the joinder of the several thousand members of the defendant union, by an action against several of the society's officers as representatives of the organization. This contention is based on the construction of the rule of Supreme Court regulating joinder of parties (order XVI, r. 9), adopted by the House of Lords in the recent case of *Duke of Bedford* v. *Ellis*, (1901) A. C. 1, where it was held that to justify a person suing in a representative character it is enough that he has a common interest with those whom he claims to represent.